UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,230	07/06/2001	Rolf Kaiser	MSFT-0577/167503.2	3984

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EXAMINER
PHAM, HUNG Q

ART UNIT	PAPER NUMBER
2168	

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/900,230	KAISER ET AL.
	Examiner	Art Unit	
	HUNG Q. PHAM	2168	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>27 January 2006</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,8,9 and 87* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,8,9 and 87* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

01/27/2006 has been entered.

Response to Arguments

- Applicant's arguments with respect to claim 1 under 35 U.S.C. § 103 have

been fully considered but they are not persuasive.

As argued by applicants at page 4:

> *... In short, the Applicants submit that Gjerdingen et al. nowhere discloses "providing a specific choice of user preferences in song content to a content provider" (claim1)(emphasis added). Gjerdingen et al. provides a specific choice of user preferences in answers to questions to a provider.*

Examiner respectfully disagrees.

The Gjerdingen reference discloses the claim limitation *providing a specific choice of user preferences in song content to a content provider* as recited in claim 1.

As illustrated in Gjerdingen at FIG. 5A, S501B, music samples and questions are

provided to users, and users' responses are transferred to modeling module at step

S504. User' response e.g., strongly disagree, neutral, strongly agree, are illustrated at

FIG. 7A1. As seen, responses, e.g., strongly disagree, neutral, strongly agree, as *specific choice of user preferences* corresponding to music samples as *song content* is *provided* to the modeling module. In short, the Gjerdingen technique as discussed performs the claimed *providing a specific choice of user preferences in song content to a content provider* as recited in claim 1.

• In light of the foregoing arguments, the rejection of claim 1 under 35 U.S.C. § 103 is hereby sustained.

Claim Objections

Claims 1 are objected to because of the following informalities: *the user's preferences* at line 5 of claim 1 (*the user preferences* is suggested), *the user* at line 9 of claim 1 (*a user* is suggested), *the chosen song* at line 4 of claim 2 (*the requested song* is suggested), *the element* at line 3 of claim 3 (*the partial element* is suggested), *the musical property* at lines 3-4 of claim 6 (*the musical properties* is suggested). Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

Claims 1-6, 8 and 9 and 87 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Gjerdingen et al. [USP 6,539,395 B1] in view of Eyal et al. [USP

6,721,741 B1].

Regarding claim 1, Gjerdingen teaches a method of searching content in a music

domain (Gjerdingen, Abstract). The Gjerdingen method comprises the step of:

providing a specific choice of user preferences in song content to a content provider (As illustrated

in Gjerdingen at FIG. 5A, S501B, music samples and questions are provided to users,

and users' responses are transferred to modeling module at step S504. User' response

e.g., strongly disagree, neutral, strongly agree, are illustrated at FIG. 7A1. As seen,

responses, e.g., strongly disagree, neutral, strongly agree, as *specific choice of user preferences*

corresponding to music samples as *song content* is *provided* to the modeling module. In

short, the Gjerdingen technique as discussed performs the claimed *providing a specific choice*

of user preferences in song content to a content provider);

mapping the specific choice of user preferences in a song analysis and matching system using a set of

fundamental musical properties that captures the user's preferences in song content (the various responses

provide values to a plurality of feature vectors that are used to define music attributes

(Gjerdingen, Col. 12, Lines 25-29), e.g., emotion (Col. 12, Lines 39-49), voice (Col. 12,

Lines 56-64), sound (Col. 13, Lines 4-13)... As seen, *specific choice of user preferences in song*

content is mapped *using a set of fundamental musical properties*, e.g., emotion, voice, sound... *that*

captures the user's preference in song content, e.g., strongly disagree, neutral, strongly agree);

As illustrated at FIG. 12, step S1205 performs the claimed *scanning a database using*

the song analysis and matching system to find other songs that have a similar mapping of musical properties

(Gjerdingen, Col. 31, Lines 34-37) and a music set including the song obtained from the

database as *other songs that have a similar mapping of musical properties* is presented to the user

(Gjerdingen, Col. 32, Lines 1-4).

The missing of Gjerdingen is the claimed *playing automatically to the user* the other

songs that have a similar mapping of musical properties.

Eyal teaches a method of searching media content includes music, video clips

(Eyal, Col. 1, Lines 10-22). As illustrated at FIG. 13, a user is provided with a user

interface for receiving media sorted according to one or more categories, such as type

of music. In response to the selection of a category, a play-list is created and sent to the

user terminal for playing consecutively and automatically.

Therefore, it would have been obvious for one of ordinary skill in the art at the

time the invention was made to include the Eyal technique of automatically playing the

result list of media and using cookies for a personal favorite play-list into Gjerdingen

method in order to allow a user evaluating the result by listening and retrieving favorite

media clips.

Regarding claim 2, Gjerdingen and Eyal, in combination, teach all of the claimed

subject matter as discussed above with respect to claim 1, Eyal further discloses *the user*

requests a particular song which the user finds pleasing and the song analysis and matching system

automatically plays a set of songs with similar fundamental musical properties as the chosen song (Eyal, Col.

36, Lines 32-56).

Regarding claim 3, Gjerdingen and Eyal, in combination, teach all of the claimed

subject matter as discussed above with respect to claim 1, Gjerdingen further discloses

the user specifies the type of music preferred by defining a partial element of a song wherein the element is

selected from a group of song elements including mood descriptors, tempo descriptors and weight descriptors

(Gjerdingen, FIG. 10A).

Regarding claim 4, Gjerdingen and Eyal, in combination, teach all of the claimed

subject matter as discussed above with respect to claim 1, Eyal further discloses *the user*

specifies a plurality of analysis elements selected from a group of analysis elements including a partial element of

a song, a song, an album, an artist and a genre (Eyal, FIG. 21).

Regarding claim 5, Gjerdingen and Eyal, in combination, teach all of the claimed

subject matter as discussed above with respect to claim 1, Eyal further discloses *the user*

while listening to a particular song transmits a "get more" command resulting in the musical properties of the

currently playing song being captured by the analysis and matching system and automatically playing to the user

other songs that have a similar mapping of musical properties as the currently playing song (Eyal, FIG. 13).

Regarding claim 6, Gjerdingen and Eyal, in combination, teach all of the claimed

subject matter as discussed above with respect to claim 1, Gjerdingen further discloses

the user may indicate an affinity for music whose corresponding attribute lies more in a specified direction for

the musical property (Gjerdingen, FIG. 10A).

Regarding claim 8, Gjerdingen and Eyal, in combination, teach all of the claimed

subject matter as discussed above with respect to claim 1, Gjerdingen further discloses

the user automatically receives recommendations that match trends detected by the song analysis and matching

system (Gjerdingen, Col. 30, Lines 34-42).

Regarding claim 9, Gjerdingen and Eyal, in combination, teach all of the

claimed subject matter as discussed above with respect to claim 1, Gjerdingen

further discloses *the song analysis and matching system determines a user profile based on the historical*

record of past decisions made by the user (Gjerdingen, FIG. 5F).

Regarding claim 87, Gjerdingen and Eyal, in combination, teach all of the

claimed subject matter as discussed above with respect to claim 1, Eyal further

discloses the steps of *accessing a historical record to recover previous user preferences* (FIG. 18, Col.

31, Line 61-Col. 32, Line 19, a personal favorite play-list as *a historical record* contains

selected media clips according to *user preferences*, after adding clips to personal favorite

play-list, media clips are read back or *recovered* at box 1640 when the user selects to play

back media clips at box 1630, and the read back media clips are *music in accordance with*

previous user preferences), and *restarting the playing of music by the analysis and matching system in*

accordance with previous user preferences (the clips are play back at box 1650, Col. 32, Lines 5-

11).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG Q. PHAM whose telephone number is 571-272-4040. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TIM T. VO can be reached on 571-272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HUNG Q PHAM
Examiner
Art Unit 2168

March 23, 2006